

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X
5 ANGELO LOPES,

6 PLAINTIFF,

7 -against-

8 Case No.:

9 20-CV-00314

10 JLM DECORATING NYC, INC., COSMOPOLITAN
11 INTERIOR NY CORPORATION, JLM DECORATING,
12 INC., CITY VIEW BLINDS OF N.Y., INC.,
13 MOSHE GOLD, JOEL GOLD a/k/a SAM GOLD
14 a/k/a SHIMMY GOLD, and MARITZA RODRIGUEZ
15 a/k/a MARITZA SIME,

16 DEFENDANTS.

17 -----X
18
19 DATE: February 11, 2021
20 TIME: 1:13 P.M.

21 DEPOSITION of the Defendant,
22 MOSHE GOLD, taken by the Plaintiff,
23 pursuant to a Notice and to the Federal
24 Rules of Civil Procedure, held on the above
25 date and time, via Virtual Zoom, before
Kelli Passalacqua, a Notary Public of the
State of New York.

A P P E A R A N C E S:

THE LAW OFFICE OF JON A. STOCKMAN

Attorneys for the Plaintiff

ANGELO LOPES

32 Broadway, Suite 1710

New York, New York 10004

BY: JON A. STOCKMAN, ESQ.

MILMAN LABUDA LAW GROUP, PLLC

Attorneys for the Defendants

JLM DECORATING NYC, INC., COSMOPOLITAN

INTERIOR NY CORPORATION, JLM DECORATING,

INC., CITY VIEW BLINDS OF N.Y., INC.,

MOSHE GOLD, JOEL GOLD a/k/a SAM GOLD

a/k/a SHIMMY GOLD, and MARITZA RODRIGUEZ

a/k/a MARITZA SIME

3000 Marcus Avenue, Suite 3W8

Lake Success, New York 11042

BY: BRETT JOSEPH, ESQ.

ALSO PRESENT:

ANGELO LOPES

* * *

F E D E R A L S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED by and between the counsel for the respective parties herein that the sealing, filing and certification of the within deposition be waived; that the original of the deposition may be signed and sworn to by the witness before anyone authorized to administer an oath, with the same effect as if signed before a Judge of the Court; that an unsigned copy of the deposition may be used with the same force and effect as if signed by the witness, 30 days after service of the original & 1 copy of same upon counsel for the witness.

IT IS FURTHER STIPULATED AND AGREED that all objections except as to form, are reserved to the time of trial.

* * * *

1 M. GOLD

2 M O S H E G O L D, called as a witness,
3 having been first duly affirmed by a Notary
4 Public of the State of New York, was
5 examined and testified as follows:

6 EXAMINATION BY

7 MR. STOCKMAN:

8 Q. Please state your name for the
9 record.

10 A. Moshe Gold.

11 Q. What is your address?

12 A. 26 Hayward Street, Apartment
13 5L, Brooklyn, New York 11249.

14 Q. Good afternoon, Mr. Gold. My
15 name is Jon Stockman. I'm the attorney for
16 Angelo Lopes in Angelo Lopes versus JLM
17 Decorating.

18 I'm going to start off the
19 deposition by going over some ground rules.
20 I'm going to be asking you questions.
21 Please let me finish asking the question
22 before you answer so that the Court
23 Reporter can take an accurate transcript.

24 If you don't understand a
25 question, please let me know and I will

1 M. GOLD

2 attempt to rephrase it if you don't
3 understand it. If you don't hear the
4 question, ask me to repeat the question.

5 Have you ever been deposed
6 before?

7 A. Yes.

8 Q. How many times?

9 A. I don't remember.

10 Q. More than ten?

11 A. I don't remember.

12 Q. More than one?

13 A. Yes.

14 Q. More than five?

15 A. I don't remember.

16 Q. When was the last time that you
17 remember being deposed?

18 A. A few years ago. I don't
19 remember which year.

20 Q. Have you ever been sued before?

21 A. No.

22 Q. You've never been --

23 A. I'm sorry, ask again the
24 question.

25 Q. Have you ever been sued before?

1 M. GOLD

2 A. Yes.

3 Q. How many times have you been
4 sued?

5 A. I don't remember.

6 Q. Was it more than once?

7 A. Yes.

8 Q. What were those lawsuits about?

9 A. I don't remember.

10 Q. Have you ever been sued in an
11 employment related matter?

12 A. I don't remember.

13 Q. Has any past employee ever sued
14 you for unpaid wages?

15 MR. JOSEPH: Objection.

16 You can answer.

17 A. I don't remember.

18 Q. Has any former employee sued
19 you for allegedly failing to pay them
20 overtime?

21 MR. JOSEPH: Objection.

22 You can answer.

23 A. I don't remember.

24 Q. Angelo Lopes' lawsuit against
25 you, the current lawsuit, is that the only

1 M. GOLD
2 lawsuit that is currently pending against
3 you?

4 MR. JOSEPH: Objection.
5 You can answer.

6 A. I don't remember.

7 Q. How old are you, Mr. Gold?

8 A. Fifty-five.

9 Q. You said 55; is that correct?

10 A. I guess so.

11 Q. How many companies do you own
12 currently?

13 A. I don't remember.

14 Q. What companies do you own
15 currently?

16 A. I don't remember.

17 Q. Are you familiar with Angelo
18 Lopes?

19 A. I guess so.

20 Q. How do you know Angelo?

21 A. He worked over here.

22 Q. Can you repeat that? I did not
23 hear you.

24 A. He worked over here for JLM.

25 Q. Why is Angelo no longer

1 M. GOLD

2 employed by JLM?

3 MR. JOSEPH: Objection.

4 You can answer.

5 A. Ask him, ask Angelo.

6 Q. I'm asking you under oath why
7 Angelo is no longer employed by JLM.

8 A. I give you answer, ask him.

9 Q. Is Angelo currently employed by
10 JLM?

11 A. No.

12 Q. Do you know why Angelo is no
13 longer employed by JLM?

14 MR. JOSEPH: Objection.

15 You can answer.

16 A. I guess he didn't do his work.

17 Q. What work didn't he do?

18 A. Multi. He didn't bring in
19 sales enough to cover his pay. He didn't
20 follow the rules of the company. He didn't
21 come in on time. He came, he left. He do
22 whatever he wants. He didn't follow the
23 company rules.

24 Q. What company rules didn't he
25 follow?

1 M. GOLD

2 A. Multi things. He didn't come
3 in time. What I mentioned before. I will
4 not repeat it again.

5 Q. The only company rule I recall
6 you mentioning is that he didn't come in on
7 time.

8 MR. JOSEPH: Objection --

9 A. I said multi things. I spell
10 out three, four items, now you're telling
11 me one, you're lying.

12 Q. Other than Angelo allegedly not
13 coming in on time, what other company rules
14 did Angelo violate?

15 A. Go back to what I said a minute
16 ago, then you got the answer.

17 MR. JOSEPH: Moshe, you just
18 need to answer the question that is
19 asked of you.

20 THE WITNESS: I answer once. I
21 don't need to answer twice, the same
22 question. He asked me, I spelled out
23 three, four items. I don't need to
24 repeat over again by law.

25 MR. STOCKMAN: Ms. Passalacqua,

1 M. GOLD

2 can you go back, reread Mr. Gold's
3 answer when I initially asked him why
4 Mr. Lopes was terminated.

5 (Whereupon, the referred to
6 answer was read back by the
7 Reporter.)

8 Q. What time was Angelo supposed
9 to come in?

10 A. Eight to five.

11 Q. What was Angelo's schedule?

12 MR. JOSEPH: Objection.

13 You can answer.

14 A. (No response.)

15 Q. What days was Angelo supposed
16 to come into the office?

17 A. I mention it to you. I'm not
18 repeating.

19 Q. I'm asking you a question --

20 A. I said eight to five. I'm not
21 repeating it.

22 MR. STOCKMAN: Brett, can you
23 please speak to your client.

24 MR. JOSEPH: Can we take a
25 five-minute break here?

1 M. GOLD

2 MR. STOCKMAN: Sure.

3 (Whereupon, a brief recess was
4 taken.)

5 Q. Mr. Gold, you mentioned company
6 rules. Does the company have these rules
7 in writing?

8 A. No.

9 MR. JOSEPH: Objection.

10 You can answer.

11 Q. While Angelo was employed, were
12 the company rules in writing?

13 MR. JOSEPH: Objection.

14 You can answer.

15 A. I don't remember, but I know I
16 sat down and I told him exactly what the
17 positions are.

18 Q. Mr. Gold, did you speak to
19 Angelo about the company's rules?

20 A. Yes.

21 Q. When did you speak to Angelo
22 about the company's rules?

23 A. When I hired him.

24 Q. What did you say about the
25 company's rules?

1 M. GOLD

2 A. Whatever the company rules are.
3 You have to come in on time eight to five,
4 you have to bring sales and manage the jobs
5 and follow up in the company rules that was
6 communicated with the project manager, the
7 accounting team and such and such.

8 Q. Did you set sales goals for
9 Angelo to meet?

10 A. Yes.

11 Q. When were those set?

12 A. What do you mean?

13 Repeat again the question.

14 Q. At what point did you set sales
15 goals for Angelo?

16 A. In the beginning when I hired
17 him.

18 Q. What were his sales goals in
19 the beginning?

20 A. What do you mean?

21 Q. What were his sales goals?

22 A. What do you mean?

23 Q. How many sales did he have to
24 make?

25 A. He has to make three times to

1 M. GOLD

2 cover his pay.

3 Q. So, when Angelo was hired you
4 communicated to him that he needed to cover
5 three times his pay?

6 A. Yes.

7 Q. Did you ever raise Angelo's
8 sales goals?

9 A. No.

10 Q. Was there ever a point where
11 Angelo failed to meet his sales goals?

12 A. Yes.

13 Q. When was that?

14 A. All the time.

15 Q. When?

16 A. All the time.

17 Q. Do you remember when Angelo
18 first missed his sales goals?

19 MR. JOSEPH: Objection.

20 A. He never met his goals for the
21 year.

22 Q. Did he ever meet his sales
23 goals?

24 A. Nope.

25 Q. Do you remember what year

1 M. GOLD

2 Angelo first started working for you?

3 A. No.

4 Q. Does 2015 sound accurate?

5 A. I don't remember.

6 Q. When you were making a
7 determination as to whether Angelo met his
8 sales goals or not, were you looking at it
9 on an annual basis, or a monthly basis or
10 something else?

11 A. Probably a quarter, six months,
12 annual.

13 Q. Why did you terminate Angelo in
14 2019?

15 MR. JOSEPH: Objection.

16 You can answer.

17 A. I don't know the question.

18 Q. Why did you terminate Angelo in
19 June of 2019 and not earlier?

20 A. I gave him warning in May 28th.
21 He didn't fix his self, so it came a point
22 where I had to terminate him.

23 Q. When did you give him this
24 warning?

25 A. May 28, '19.

1 M. GOLD

2 Q. Did you give him any warnings
3 prior to May 2019?

4 A. Verbally, yes.

5 Q. When did you verbally give
6 him --

7 A. I don't remember.

8 Q. How do you know that Angelo
9 failed to meet his sales goals?

10 A. I don't understand your
11 question.

12 Q. How do you know that Angelo
13 failed to meet sales goals?

14 A. If the sales didn't come in,
15 they didn't do sales, then I know he failed
16 his sales goals.

17 Q. How would you determine if
18 sales came in?

19 A. Everything is marked in-house
20 who brought in sales.

21 Q. Where is it marked?

22 A. In a sheet.

23 Q. What is the sheet called?

24 A. I don't know.

25 Q. Did you look at this sheet?

1 M. GOLD

2 A. I'm getting every quarter the
3 sales sheet to see who brought in what.

4 Q. How are your quarters measured?

5 MR. JOSEPH: Objection.

6 You can answer.

7 A. I don't understand the
8 question.

9 Q. When does a quarter begin and
10 when does a quarter end?

11 A. I don't understand the
12 question. Every quarter is a quarter.
13 Three months is one quarter, six months,
14 two quarters.

15 Q. What months are you looking at?

16 A. Every quarter.

17 Q. Is there a quarter one?

18 A. Every quarter is a quarter.
19 Three months is a quarter. I don't know
20 one, two, five, eight. Every year have
21 four quarters.

22 Q. Does JLM have a quarter one?

23 A. I don't know the calendar.
24 Every three months is a quarter.

25 Q. Did Angelo ever bring in

1 M. GOLD

2 multimillion dollar jobs?

3 A. Nope. Not that I know.

4 Q. Who made the decision to
5 terminate Angelo?

6 A. Moshe Gold.

7 Q. Is that you?

8 A. I guess so.

9 Q. Is there another Moshe Gold
10 within the company?

11 A. I don't know.

12 Q. Did you make the decision to
13 terminate Angelo?

14 A. Yes.

15 Q. Did anybody else participate in
16 that decision?

17 A. I don't think so, no.

18 Q. Did anyone recommend to you
19 that Angelo be terminated?

20 A. Nope.

21 Q. Did you ever reduce Angelo's
22 salary?

23 A. Yes.

24 Q. Why did you do that?

25 A. Because the work had not got

1 M. GOLD

2 done so I gave him options to continue
3 doing your work, speed up your work, speed
4 up your sales and then you will have money
5 to be made back.

6 MR. STOCKMAN: Can you read
7 back his answer. I didn't understand
8 all of it.

9 (Whereupon, the referred to
10 answer was read back by the
11 Reporter.)

12 Q. What work hadn't gotten done?

13 A. None of them.

14 Q. Are you saying that Angelo
15 didn't do any work?

16 MR. JOSEPH: Objection.

17 You can answer.

18 A. The right proper work the way I
19 want him to do, he didn't. He didn't come
20 in time. He come, he left, he had no time.
21 He is like a self employed person. I have
22 no clue where he go, when he goes, what job
23 he is handling. I have no clue something.

24 I decide to reduce his salary.
25 I gave him opportunity, you bring in sales

1 M. GOLD

2 you will have commission so then you can
3 get back your amount.

4 Q. What specific work did Angelo
5 fail to do that motivated you to reduce his
6 salary?

7 MR. JOSEPH: Objection.

8 You can answer.

9 A. Multi different ways like I
10 mention before. Project manage was
11 incorrect, coming and going almost like
12 self-employed. I have no clue where he is.
13 He didn't punch in time in office, so multi
14 things got neglected.

15 Q. What did you say about project
16 manage?

17 A. Project manager. He didn't
18 project manage what he was supposed to.

19 Q. What jobs wasn't he managing?

20 A. I don't know. There was multi
21 or whatever. Every time a different job,
22 whatever he was told to do.

23 Q. What jobs?

24 A. I don't remember.

25 Q. Did you reduce anyone else's

1 M. GOLD

2 salary?

3 A. I don't remember.

4 Q. What is your position with JLM?

5 A. President. Owner.

6 Q. What are your responsibilities
7 as president owner?

8 A. I don't understand. Owner,
9 whatever owner is required. All
10 responsibilities.

11 Q. Do you have the authority to
12 hire and fire employees?

13 A. Yes.

14 Q. Do you determine what employees
15 are paid?

16 MR. JOSEPH: Objection.
17 You can answer.

18 A. Yes.

19 Q. How did you determine that
20 Angelo was managing projects correctly?

21 A. I don't understand the
22 question.

23 Q. How did you know that Angelo
24 was not managing projects correctly?

25 A. I'm getting complaints from my

1 M. GOLD

2 people in the office.

3 Q. Who complained to you?

4 A. Multi people.

5 Q. Who?

6 A. I don't remember who.

7 Q. Do you remember any specifics
8 of complaints?

9 A. Nope. Nope. Just he didn't
10 follow the company system like he was
11 supposed to.

12 Q. What was the company system?

13 A. Multi different ways.

14 Q. What were those ways?

15 A. Project manage, reporting what
16 is going on job, follow up the rules that
17 the person Sam was running. Certain
18 projects and to repeat -- to report to him
19 was not.

20 Q. When you say "Sam," are you
21 referring to your son?

22 A. Yes.

23 Q. What did Sam say to you about
24 Angelo?

25 A. He doesn't follow the rules.

1 M. GOLD

2 He doesn't report. He goes, coming, he
3 does what he wants. He doesn't bring the
4 paperwork, doesn't bring in the report on
5 the job. He doesn't manage the job.

6 Q. What is Sam's experience in the
7 commercial painting industry?

8 A. What you mean, what experience?

9 Q. What experience does he have in
10 commercial painting?

11 MR. JOSEPH: Objection.

12 You can answer.

13 A. Multi years managing.

14 Q. What experience do you have in
15 commercial painting?

16 A. Multi years managing.

17 Q. Is it accurate to say that
18 Angelo has more experience in commercial
19 painting than you do?

20 A. No.

21 Q. Why is that, in your opinion,
22 an inaccurate statement?

23 A. That is my opinion, no.

24 Q. What is the basis of your
25 opinion?

1 M. GOLD

2 A. What is the basis he should
3 have more?

4 MR. JOSEPH: You just have to
5 answer the question that is asked of
6 you, Moshe.

7 A. I have been in the industry
8 since 1988.

9 Q. You have been in the commercial
10 painting industry since 1988?

11 A. Multi different trades, yes.

12 Q. Did you talk to Sam about
13 terminating Angelo?

14 A. I don't understand the
15 question.

16 Q. Did you talk to Sam about
17 terminating Angelo?

18 A. I spoke to him about his lack
19 of work, what he doesn't do.

20 Q. Is JLM Decorating NYC,
21 Incorporated still in business today?

22 A. Yes.

23 Q. Is Cosmopolitan Interior New
24 York Corporation still in business today?

25 A. Yes.

1 M. GOLD

2 Q. How about JLM Decorating,
3 Incorporated?

4 A. I don't remember. I know only
5 JLM.

6 Q. Is City View Blinds still in
7 business today?

8 A. Yes.

9 Q. Are JLM Decorating,
10 Incorporated and Cosmopolitan the same
11 company?

12 MR. JOSEPH: Objection.

13 A. No.

14 Q. How are they different?

15 A. Different company.

16 How is Macy's and Target
17 different company?

18 Q. Do you own both companies?

19 A. Yes, I do.

20 Q. Does anyone else own JLM?

21 A. No.

22 Q. Does anyone else own
23 Cosmopolitan?

24 A. No.

25 Q. Does anyone else own City View

1 M. GOLD

2 Blinds?

3 A. No.

4 Q. What is Maritza Sime's role
5 with JLM?

6 A. She is working here.

7 Q. What does she do?

8 A. Multi things. I don't remember
9 exactly.

10 Q. What do you remember her doing?

11 A. I know she picks up the phone.

12 Q. Do you work with her directly?

13 A. Sometimes.

14 Q. Who works at JLM now?

15 MR. JOSEPH: Objection.

16 You can answer.

17 A. I don't know.

18 Q. Who would know who works at JLM
19 currently?

20 A. I don't know.

21 Q. Who manages the office at JLM?

22 A. Sam.

23 Q. Did Angelo ever complain about
24 workers not being paid properly?

25 A. Nope.

1 M. GOLD

2 Q. Did Angelo ever complain to you
3 about workers not receiving wage statements
4 they should be?

5 A. Nope.

6 Q. Does JLM employ painters?

7 A. I don't understand your
8 question.

9 Q. What does JLM do?

10 What is JLM's business?

11 A. They serve customers when they
12 want job to get done, painting, wallpaper
13 and such and such.

14 Q. Who does JLM hire to do the
15 painting?

16 A. We have whole team.

17 Q. So, JLM has its own painters?

18 MR. JOSEPH: Objection.

19 A. Yes.

20 Q. Who are some of the JLM
21 painters?

22 A. I have no clue.

23 Q. Who would know who the painters
24 are?

25 A. I don't know.

1 M. GOLD

2 Q. Would Sam Gold know?

3 A. I don't know.

4 Q. How about Jose Arias, would he
5 know?

6 MR. JOSEPH: Objection.

7 A. I don't know.

8 Q. Who is in charge of the payroll
9 at JLM?

10 A. I don't know.

11 Q. Who would know who is in charge
12 of the payroll?

13 A. I don't know.

14 Q. Are you involved in the
15 day-to-day operations of JLM?

16 A. Overall.

17 Q. What type of work do you do
18 with JLM, you, yourself?

19 A. I don't understand your
20 question.

21 Q. You testified that overall
22 you're involved in the day-to-day
23 operations, what does that mean?

24 A. Financing and income, expenses.

25 Q. How are you involved in the

1 M. GOLD

2 income?

3 A. There is a sheet to find out
4 what is going on. That is what it
5 involves.

6 Q. How are you involved in the
7 financing?

8 A. If I got a sheet, how many
9 people pay, how many not.

10 Q. How are you involved in the
11 expenses?

12 A. I got a sheet what needs to be
13 paid, whatnot.

14 Q. Do you know if the JLM painters
15 are given checks when they're paid?

16 A. I guess so.

17 Q. Do you know if the JLM painters
18 are given statements with their checks?

19 A. I don't know what you mean
20 statement, what statement?

21 Q. Are JLM painters paid by the
22 hour?

23 A. I don't know.

24 Q. Who would know?

25 A. I don't know.

1 M. GOLD

2 Q. Do you know if JLM painters are
3 paid in cash?

4 A. No cash.

5 Q. Were they ever paid in cash?

6 A. No, never.

7 MR. JOSEPH: Objection.

8 A. Never.

9 Q. How do you know that JLM
10 painters were never paid in cash?

11 A. I'm involved in the financing.

12 MR. JOSEPH: Objection.

13 Q. The painters that work for JLM,
14 do you consider them employees or did you
15 consider them independent contractors?

16 MR. JOSEPH: Objection.

17 A. Employees.

18 Q. Has that always been the case?

19 A. Yes.

20 Q. Does JLM use independent
21 contractors?

22 A. I don't know.

23 Q. Who would know?

24 A. I don't know.

25 Q. Was there ever a time where JLM

1 M. GOLD

2 used independent contractors instead of
3 employees to do commercial painting jobs?

4 MR. JOSEPH: Objection.

5 A. I don't know.

6 Q. Did JLM ever use a payroll
7 ledger?

8 A. I don't know.

9 Q. Did JLM ever use a payroll
10 register?

11 A. I don't know.

12 Q. How are you so sure that JLM
13 employees aren't paid cash?

14 A. Because I'm signing every
15 check. How they have cash? I don't have
16 cash.

17 Q. Back when Angelo was working
18 for JLM, were you signing every check?

19 A. Yes.

20 Q. Back in 2018, were you signing
21 every check?

22 A. Yes.

23 Q. Back in 2018, were there any
24 painters that worked for JLM that were paid
25 cash?

1 M. GOLD

2 MR. JOSEPH: Objection.

3 A. No.

4 Q. How do you know that?

5 MR. JOSEPH: Objection. You
6 already asked him that.

7 THE WITNESS: He asked me
8 already. I said no.

9 A. How do I know today?
10 What you mean how you know?
11 I said no is no.

12 Q. Back in 2019, did you sign
13 every payroll check for JLM?

14 A. For the third time, yes.

15 Q. Were those payroll checks for
16 painters as well as office workers?

17 A. Yes.

18 Q. Back in 2018, when you signed
19 payroll checks, was there any statement
20 attached to those payroll checks that you
21 noticed?

22 MR. JOSEPH: Objection.

23 A. I don't know.

24 Q. Did you ever see a statement
25 documenting the amount of hours that a

1 M. GOLD

2 painter worked connected to a payroll
3 check?

4 MR. JOSEPH: Objection.

5 A. I don't know what you are
6 talking about. I have no clue what
7 statement means.

8 Q. The payroll checks that you
9 signed back in 2018, was there anything
10 connected to those checks?

11 A. I think so. That is called the
12 pay stub.

13 Q. Was there a pay stub connected
14 to the check that you signed?

15 A. Yes.

16 Q. What information was on these
17 pay stubs?

18 A. I don't remember.

19 Q. Does JLM keep copies of those
20 pay stubs?

21 A. I don't know.

22 Q. Who would know?

23 A. I don't know.

24 Q. I'd like to turn your attention
25 to Plaintiff's Exhibit B.

1 M. GOLD

2 A. Yes.

3 Q. I'd like you to review the
4 document that has been marked Plaintiff's
5 Exhibit B and let me know when you finish
6 reviewing it.

7 A. Okay, I already review.

8 Q. Mr. Gold, have you ever seen
9 the document that's been marked Plaintiff's
10 Exhibit B before today?

11 A. Yes.

12 Q. What do you recognize the
13 document to be?

14 A. I mentioned before I warned
15 Angelo he has to fix his self to follow up
16 all the items whatever has been listed in
17 this sheet.

18 Q. Mr. Gold, did you prepare the
19 May 28, 2019 written warning yourself?

20 A. Yes.

21 Q. Did you write this language
22 yourself?

23 A. No.

24 Q. Who wrote the language?

25 A. I don't remember. Somebody in

1 M. GOLD

2 my office.

3 Q. Did you dictate what language
4 should be written?

5 A. I probably review it until I
6 okay it.

7 Q. Did you tell someone in your
8 office what to write?

9 A. Overall, yes.

10 Q. There is a comment indicating
11 that Angelo did not follow office
12 procedures regarding proposals, do you see
13 that comment?

14 A. Yes.

15 Q. Is that comment accurate?

16 A. Yes.

17 Q. How do you know that is
18 accurate?

19 MR. JOSEPH: Objection.

20 You can answer.

21 A. That is what they gave me from
22 the office that he doesn't follow
23 proposals.

24 Q. Who told you Angelo doesn't
25 follow proposals?

1 M. GOLD

2 A. Sam.

3 Q. What are office procedures
4 following proposals?

5 A. Whatever it is. I don't
6 remember.

7 Q. There is also a comment about
8 Angelo not managing assigned projects
9 including, but not limited to, field
10 operations, project schedules, etc, is that
11 comment accurate?

12 A. Yes.

13 Q. How do you know that?

14 A. The same thing. I got told
15 from my office staff.

16 Q. Do you have any personal
17 knowledge that Angelo was not managing
18 assigned projects?

19 A. I don't understand the
20 question.

21 Q. Do you have any personal
22 knowledge that Angelo did not manage
23 assigned projects?

24 A. Again, I don't understand what
25 you're trying to ask.

1 M. GOLD

2 Q. Who at your office told you
3 that Angelo was not managing assigned
4 projects?

5 A. It was probably Sam, Sam and
6 Maritza.

7 Q. How would Maritza know that
8 Angelo wasn't managing assigned projects?

9 A. Probably she running a
10 certain -- she is a part of the office
11 staff. She knows what is supposed to be
12 doing and he does follow, he doesn't do it.

13 Q. There is a comment about Angelo
14 not being knowledgeable of projects
15 assigned to, is that comment accurate?

16 A. Yes.

17 Q. How do you know that comment is
18 accurate?

19 A. Again, the same thing from the
20 office staff.

21 Q. Who at the office told you
22 that?

23 A. Probably Sam and Maritza.

24 Q. There is a comment about Angelo
25 not providing the office with proper

1 M. GOLD

2 paperwork to ensure jobs are handled
3 properly including, but not limited to,
4 proposals, change orders, approvals, etc,
5 is that comment accurate?

6 A. Yes.

7 Q. How do you know that?

8 A. The same thing, again, from the
9 office staff.

10 Q. Who do you think at the office
11 told you?

12 A. Sam, Maritza.

13 Q. What paperwork was Angelo
14 supposed to be providing that he didn't do?

15 A. Every job different.

16 Q. Let's go over the different
17 jobs.

18 A. I don't have anything with a
19 detail from the job.

20 Q. There is a comment about Angelo
21 engaging in insubordination to upper
22 management, is that comment accurate?

23 A. Yes.

24 Q. How do you know that is
25 accurate?

1 M. GOLD

2 A. Again, from the office staff,
3 which is Sam and Maritza.

4 Q. Do you know what this is
5 referring to, insubordination to upper
6 management?

7 A. I don't remember now.

8 Q. Do you see there is a comment
9 that says your performance will be reviewed
10 again in thirty days from the date of this
11 letter?

12 A. Yes.

13 Q. Is it accurate to say that
14 Angelo was terminated less than 30 days
15 from the date of this letter?

16 A. Yes.

17 Q. Why wasn't Angelo given thirty
18 days from the date of the letter?

19 A. He left. After he leave, then
20 I terminate in writing.

21 Q. I didn't hear you.

22 A. He left before the thirty days.

23 Q. What did you mean he left?

24 A. He decide he quit.

25 Q. Did Angelo communicate to you

1 M. GOLD

2 that he quit?

3 A. Yes.

4 Q. What did Angelo say to you?

5 A. "I'm quitting. I'm leaving."

6 Q. So, is it your testimony that
7 you didn't terminate Angelo, Angelo quit?

8 MR. JOSEPH: Objection.

9 A. Again, don't turn around
10 different what I said. I terminate in
11 writing in June 20th, he quit before. So,
12 he didn't give us any chance for thirty
13 days to discuss further.

14 Q. Angelo quit before June 20th?

15 A. Correct.

16 MR. STOCKMAN: Can we mark the
17 document as Plaintiff's Exhibit C.

18 Q. Mr. Gold, I want to turn your
19 attention to the document that has been
20 marked as Plaintiff's Exhibit C, you have
21 that in front of you.

22 A. Marked what?

23 Q. Plaintiff's Exhibit C.

24 A. What is it? I don't.

25 MR. JOSEPH: It is the

1 M. GOLD

2 termination letter.

3 A. June 20th.

4 MR. JOSEPH: Correct.

5 A. Yes, I have it.

6 Q. I'd like for you to review the
7 document and let me know when you finish
8 reviewing.

9 A. Okay.

10 Q. Have you reviewed the document,
11 Mr. Gold?

12 A. Yes.

13 Q. Do you recognize the document
14 that has been marked Plaintiff's Exhibit C?

15 A. Yes.

16 Q. How do you recognize it?

17 A. I signed it.

18 Q. What do you recognize the
19 document to be?

20 A. Whatever it says over here.

21 Q. Can you repeat yourself? I
22 didn't hear what you said.

23 A. This is a termination letter.

24 Q. Did you write this termination
25 letter?

1 M. GOLD

2 A. I signed it.

3 Q. Who wrote the letter?

4 A. I don't remember.

5 Q. There is an allegation here
6 that Mr. Lopes engaged in gross misconduct,
7 is that an accurate statement?

8 A. What?

9 Q. There is an allegation in the
10 termination letter that Mr. Lopes acted in
11 gross misconduct, is that an accurate
12 statement?

13 A. I don't understand the
14 question.

15 Q. Was Mr. Lopes terminated for
16 gross misconduct?

17 A. What do you mean "misconduct"?
18 What you mean with that?

19 Q. The letter says that Mr. Lopes'
20 termination to JLM Decorating has been
21 terminated for unsatisfactory job
22 performance and gross misconduct.

23 A. Yes.

24 Q. Is that an accurate statement?

25 A. Yes.

1 M. GOLD

2 Q. How did Mr. Lopes engage in
3 gross misconduct?

4 A. Like I just said before, he
5 didn't follow all the way how he should do
6 what we need him to do. He should follow
7 the rules and such and such.

8 Q. I want to go back to about
9 February 2019. Is it accurate that
10 Plaintiff's salary was reduced in February
11 2019?

12 A. Yes.

13 Q. Why did you decide at that
14 point to reduce his salary and not sooner?

15 MR. JOSEPH: Objection.

16 You can answer.

17 A. I have no clue what you mean.

18 Q. Why did you reduce Mr. Lopes'
19 salary in February 2019 and not, let's say,
20 June of 2018?

21 A. I gave him a chance. Until I
22 see there is no change.

23 Q. Was there ever a period of time
24 where Mr. Lopes was performing up to your
25 expectations?

1 M. GOLD

2 A. No.

3 Q. Why didn't you reduce
4 Mr. Lopes' salary in 2016?

5 MR. JOSEPH: Objection.

6 You can answer.

7 A. A, I don't think he was working
8 in '16, and second, I gave him a chance
9 until I decide after that few years that is
10 nothing to expect on the way it goes now.
11 If he does the salary, maybe he catch up.

12 Q. Did you give him anything in
13 writing about his salary reduction
14 explaining to him why you're reducing his
15 salary?

16 A. I don't remember.

17 Q. Was there any particular job
18 that was lost that motivated your decision
19 to reduce Mr. Lopes' salary?

20 MR. JOSEPH: Objection.

21 A. I don't remember.

22 MR. STOCKMAN: Kelli, did you
23 take down my last question and his
24 answer? I think they were cut off.

25 (Whereupon, the referred to

1 M. GOLD

2 question and answer were read back by
3 the Reporter.)

4 Q. Mr. Gold, did you ever go to
5 any of the JLM job sites?

6 A. Most of the time, no. But
7 sometimes.

8 Q. Did you ever supervise the
9 painters?

10 A. No.

11 Q. Did anyone at JLM supervise the
12 painters?

13 A. I guess so.

14 Q. Do you know who did?

15 A. I don't remember. I have to
16 find out.

17 Q. Did JLM ever sub out painting
18 work to a company called Paint Zen?

19 A. Yes.

20 Q. Other than Paint Zen, did JLM
21 sub out work to any other painting company?

22 MR. JOSEPH: Objection.

23 You can answer.

24 A. I don't remember.

25 Q. Who would know that?

1 M. GOLD

2 A. I don't know.

3 Q. Would anyone know that other
4 than you?

5 A. I don't know.

6 Q. Is JLM still working with Paint
7 Zen?

8 A. No, not that I know.

9 Q. What do you know about that
10 arrangement?

11 MR. JOSEPH: Objection.

12 You can answer.

13 A. I don't know.

14 Q. Who at JLM is in charge of
15 purchasing the materials used at JLM job
16 sites?

17 A. I don't know.

18 Q. Do you know who would know?

19 MR. JOSEPH: Objection.

20 A. I don't know.

21 Q. Did Sam encourage you to reduce
22 Angelo's salary?

23 A. No.

24 Q. Did Maritza encourage you to
25 reduce Angelo's salary?

1 M. GOLD

2 A. No.

3 Q. Did you reduce Maritza's salary
4 at any point?

5 A. I don't remember.

6 Q. Did you reduce Sam's salary at
7 any point?

8 A. I don't remember.

9 Q. Is there an employee that works
10 for JLM by the name of Roy?

11 MR. JOSEPH: Objection.

12 You can answer.

13 A. Yes.

14 Q. What is Roy's full name?

15 A. I don't know.

16 Q. What did Roy do for JLM?

17 A. Multi things.

18 Q. Like what?

19 A. Project manager, estimates.

20 Q. Did you ever reduce Roy's
21 salary?

22 A. I don't remember.

23 Q. Is there an employee that works
24 for JLM by the name of Eli Nickburg?

25 A. Salesperson.

1 M. GOLD

2 Q. What does Eli Nickburg do for
3 JLM?

4 A. Salesperson.

5 Q. Did you ever reduce Eli's
6 salary?

7 A. I don't remember.

8 Q. Is it accurate to say that
9 other than reducing Plaintiff's salary, you
10 don't remember reducing anyone else's
11 salary at JLM?

12 A. I don't remember anything.

13 Q. Have you ever terminated an
14 employee other than Mr. Lopes?

15 MR. JOSEPH: Objection.

16 You can answer.

17 A. I don't remember.

18 Q. Did Mr. Lopes also work for
19 Cosmopolitan Interior?

20 MR. JOSEPH: Objection.

21 You can answer.

22 A. I don't think so.

23 Q. What is the difference between
24 Cosmopolitan Interior and JLM?

25 A. I don't know.

1 M. GOLD

2 MR. JOSEPH: Objection, already
3 asked and answered.

4 Q. Do you remember who determined
5 the hours that the JLM painters worked?

6 A. I don't know.

7 Q. Could painters show up on a job
8 site whenever they wanted or did they have
9 set hours?

10 A. Set hours.

11 Q. Did JLM set those hours?

12 MR. JOSEPH: Objection.

13 You can answer.

14 A. Of course.

15 Q. What type of tools and
16 materials are used at job sites?

17 A. I have no clue. I don't know.

18 Q. Do you know if JLM supplied the
19 tools used at the job sites?

20 A. I don't know.

21 Q. Do you know who would know?

22 A. I don't know.

23 Q. Did JLM purchase Workers' Comp
24 insurance for all painters working at JLM
25 job sites?

1 M. GOLD

2 MR. JOSEPH: Objection.

3 You can answer.

4 A. I don't know. I guess so.

5 Q. Do you know if there are
6 painters that work at multiple JLM job
7 sites?

8 MR. JOSEPH: Objection.

9 You can answer.

10 A. I don't know.

11 Q. Does JLM have any long tenured
12 painters?

13 A. I don't know.

14 Q. Do you know any of the JLM
15 painters?

16 A. No.

17 Q. Have you ever met a JLM
18 painter?

19 A. I don't remember.

20 Q. Does JLM have an employee
21 handbook?

22 A. I don't know.

23 Q. Does JLM have a human resources
24 department?

25 A. I don't know.

1 M. GOLD

2 Q. Do you think Sam would know --

3 A. I don't know.

4 Q. -- if there were --

5 A. I don't know.

6 (Speaking simultaneously.)

7 MR. STOCKMAN: Strike the
8 question.

9 Q. Have you ever received any
10 training about antidiscrimination laws?

11 A. I don't remember.

12 Q. Do you have a college degree?

13 A. I don't remember.

14 Q. You are claiming under oath you
15 don't remember if you have a college
16 degree?

17 A. Correct.

18 Q. Have you been diagnosed with
19 any medical condition that would cause
20 memory loss?

21 A. No.

22 Q. Are you taking any medication
23 that could cause memory loss?

24 A. This is private. I'm not
25 answering. It private. This is private

1 M. GOLD

2 life. I'm giving out nothing about my
3 medication.

4 Q. Do you have a high school
5 diploma?

6 A. I don't remember.

7 Q. Do you have any schooling?

8 A. I don't remember.

9 Q. Have you ever attended a class?

10 A. I don't remember.

11 Q. You don't remember if you ever
12 attended a class in your lifetime?

13 A. I don't remember.

14 Q. Do you know if it's legal to
15 terminate an employee because of their
16 religion in the State of New York?

17 MR. JOSEPH: Objection.

18 You can answer.

19 A. I have no clue what you are
20 asking.

21 Q. Do you know if it's legal to
22 terminate an employee because of their
23 religion in the State of New York?

24 MR. JOSEPH: Objection.

25 A. I don't know the question. I

1 M. GOLD

2 can't answer.

3 Q. Do you know if it's legal for a
4 company to terminate an employee because of
5 the employee's race?

6 MR. JOSEPH: Objection.

7 You can answer.

8 A. I did everything legal.

9 MR. JOSEPH: You need to answer
10 the question that is asked of you,
11 Moshe.

12 THE WITNESS: I don't know what
13 he asked.

14 Q. How do you know you did
15 everything legal?

16 A. I did everything legal. He
17 does what he wants, comes when he wants.
18 It is legal to give him a warning and then
19 he still continues to do whatever he wants.
20 It is legal way to get fired and that is
21 what I did.

22 Q. How do you know that it is
23 legal to terminate an employee under those
24 circumstances?

25 MR. JOSEPH: Objection.

1 M. GOLD

2 You can answer.

3 A. I discuss that with my lawyer.

4 MR. JOSEPH: Don't get into --

5 THE WITNESS: He --

6 MR. STOCKMAN: I'm not

7 asking --

8 MR. JOSEPH: I trust that you

9 won't.

10 (Speaking simultaneously.)

11 Q. Who at JLM determines what
12 employees are paid?

13 A. I don't understand the
14 question. Repeat.

15 Q. Do you determine the rate at
16 which employees are paid at JLM?

17 A. Some authority, yes.

18 Q. Does anyone else at JLM
19 determine rate of pay?

20 A. No.

21 Q. Are there certain employees at
22 JLM that are paid based on the amount of
23 hours that they work?

24 MR. JOSEPH: Objection.

25 You can answer.

1 M. GOLD

2 A. Which employees? There is
3 multi different kind of employees.

4 Q. I'm asking, are there any
5 employees at JLM that are paid by the hour?

6 A. Yes.

7 Q. Are there employees at JLM that
8 receive overtime pay?

9 A. I don't remember.

10 Q. Are employees at JLM paid at
11 least the minimum wage?

12 MR. JOSEPH: Objection.

13 You can answer.

14 A. I don't have any idea. Whoever
15 get paid get paid when they needed to get
16 paid.

17 Q. Who determines what they need
18 to get paid?

19 A. Who determine for you to get
20 paid? I determine according to what we
21 discussed and how people to get paid.

22 Q. Are you aware of a law called
23 the New York Labor Law?

24 MR. JOSEPH: Objection.

25 You can answer.

1 M. GOLD

2 A. Yes.

3 Q. What is your understanding of
4 the New York Labor Law?

5 MR. JOSEPH: Objection.

6 You can answer.

7 A. I know there is a law. I have
8 to double check everything with a lawyer by
9 law what I'm doing. That, I know.

10 Q. Does JLM have a human resources
11 manager?

12 A. I don't know.

13 Q. Have you ever heard of the
14 phrase at-will employment?

15 A. I don't remember.

16 Q. Do you know if there are any
17 reasons where it is illegal to terminate an
18 employee?

19 MR. JOSEPH: Objection.

20 You can answer.

21 A. Everything gets done with my
22 lawyer.

23 MR. STOCKMAN: Can we take a
24 five-minute break.

25 (Whereupon, a brief recess was

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M. GOLD

taken.)

MR. STOCKMAN: I have no
further questions.

(Whereupon, at the conclusion
of this deposition documents were
marked as Plaintiff's Exhibits A, B
and C for identification as of this
date by the Reporter.)

(Whereupon, at 3:03 P.M., the
Examination of this witness was
concluded.)

° ° ° °

M. GOLD

D E C L A R A T I O N

I hereby certify that having been
first duly sworn to testify to the truth, I
gave the above testimony.

I FURTHER CERTIFY that the foregoing
transcript is a true and correct transcript
of the testimony given by me at the time
and place specified hereinbefore.

MOSHE GOLD

Subscribed and sworn to before me
this _____ day of _____ 20____.

NOTARY PUBLIC

M. GOLD

E X H I B I T S

PLAINTIFF'S EXHIBITS

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(Exhibits retained by Court Reporter)

M. GOLD

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MR. STOCKMAN	4

INFORMATION AND/OR DOCUMENTS REQUESTED	
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(None)	

QUESTIONS MARKED FOR RULINGS
PAGE LINE QUESTION
(None)

M. GOLD

C E R T I F I C A T E

STATE OF NEW YORK)
: SS.:
COUNTY OF RICHMOND)

I, KELLI PASSALACQUA, a Notary Public
for and within the State of New York, do
hereby certify:

That the witness whose examination is
hereinbefore set forth was duly affirmed
and that such examination is a true record
of the testimony given by that witness.

I further certify that I am not
related to any of the parties to this
action by blood or by marriage and that I
am in no way interested in the outcome of
this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 24th day of February 2021.



KELLI PASSALACQUA

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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